1945

File No. Epidemic Disease II/45

Legal Department

B. **BRANCH**

Subject:— Rules and Notifications under The Epidemic Diseases Act of 1897.

9/1945 E

File No. Epidemic Diseases II/45.

Gen. 194 e.

4-56-B.

Office of the D.L.A.

Sections 180(1) of the Bombay Municipal Boroughs Act, 1925, provides that in the event of the municipal borough or any part thereof being at any time threatened or visited by an outbreak of any dangerous disease, the municipality may shall take all such measures as the Commissioner may deem necessary for the purpose of preventing, meeting, mitigating or suppressing such outbreak. The Commissioner would therefore be competent under this provision to direct a municipality to carry out mass inoculation in order to prevent a threatened outbreak of a dangerous disease like cholera and the municipality will have to carry it out. In the case of municipal districts recourse can be had to section 145 of the Bombay District Municipal Act, 1901, and the municipality may be asked to carry out mass inoculation in order to prevent the outbreaks of cholera in these areas. So far therefore as the municipal areas are concerned these provisions are adequate and it would not be legally feasible to resort to section 2 of the Epidemic Diseases Act, 1897. The Bombay Local Boards Act, 192-, does not contain any similar provision, nor does section 45 of the Bombay District Police Act, 1890, contain any similar provision. In non-municipal areas provision will therefore have to be made by amending regulation 6 of the Cholera Regulations. The following clause may be inserted as clause (x) of regulation 6 of the temporary Cholera Regulations, clause (ix) having been recently furnished to G.L. (re. prohibiting menial staff of a municipality from resigning or absenting etc.):-

"(x) by order require that, save in the case of a person in respect of whom a certificate has been

produced from a registered medical practitioner or an inoculator duly authorised in that behalf that such person has been inoculated by him within six months immediately preceding the date of the order or in respect of whom an exemption in writing has been granted by the Cholera Controlling Officer, every person in such town or village which is not included in a municipal borough of municipal district shall get himself and these under his control or guardianship inoculated against cholera within ---- days of such order."

Id/-

P.N.U.

7/9/45.

Remembrancer of Legal Affairs.

P.F. to G.D., No. 6665 dated the 12th September 1945.

N.V.R.
17/7
4a.

Office of the R.L.A.

The temporary plague regulations applied to Nasik on 22nd August 1945 at pp. 81-87 ante do not provide for power to prevent people from an area infected with plague entering any other area in the Nasik district. It is feasible to take power to the District Magistrate to do so in respect of non-municipal areas. It is not clear what area is included in the expression "Nasik Road area" used in the draft at page 77 ante. If that area is confined wholly to the Municipal Borough of Nasik, the necessary powers can be conferred on the Municipality under section 180 of the Bombay Municipal Boroughs Act, 1925, and therefore no action under section 2 of the Epidemic Diseases Act, 1897 (III of 1897), is feasible. Action can however be taken to give this power to the District Magistrate in respect of non-municipal areas, if any, included in the Nasik Road area.

A revised draft notification for the purpose is sent herewith.

Sd/-

Remembrancer of Legal Affairs.

U.P. to G.D. No. 6508 , dated the 12th September 1945.

NOTIFICATION.

General Department,
Bombay Castle, 1945.

Epidemic Diseases Act, 1897.

No. 435/33-D. In exercise of the powers conferred by section 2 of the Epidemic Diseases Act, 1897 (III of 1897), the Government of Bombay is pleased to amend the Plague Regulations published in Government Notification, General Department No. 4307/33-D dated the 22nd August 19 5, as follows, namely:-

After regulation 3 of the said regulations, the following new regulation shall be inserted, namely:-

"3-A. The District Magistrate may, by order direct that no person from any infected area shall enter any portion of the Nasik Road area which is not included in the Municipal Boroughs of Nasik, unless-

(i) he produces a certificate from.....
..... of having been inoculated against plague within a period of.....

(ii) he allows his luggage to be fumigated at such place as the District Magistrate may appoint in this behalf."

Here specify desired authority.

here specify the period.

By order of the Governor of Bombay,

Secretary to Government.

N.V.D.
17/7
4c.

General Department.

Bombay Castle, October 1945.

NOTIFICATION.

Epidemic Diseases Act, 1897.

No. 4307/33.- In exercise of the powers conferred by section 2 of the Epidemic Diseases Act, 1897 (IIIof 1897), the Government of Bombay is pleased to amend the plague regulations published in the Government Notification, General Department, No. 4068, dated the 14th April 1934, as follows, namely:-

To regulation 10 of the said regulations, the following clause shallx be added, namely :

(e) By order require that, save in the case of a person in respect of whom a certificate has been produced from a registered medical practitioner or an inoculator dul. authorised in that behalf that such person has been inoculated by him within six months immediately preceding the date of the order or respect of whom an exemption in writing has been granted by the Plague Authority or any person authorised by such authority , every person in such town or village which is not included in a municipal borough or municipal district shall get himself and those under his control or guardianship inoculated against Plague within fifteen days of such order".

By order ofthe Governor of Bombay,

Sd/- M . D. BHANGALY,

Secretary to Government.

N.V.D.
17/7
40.

Office of the R.L.A.

The draft notification at pp. 5-6 ante as slightly amended is in order.

Sd/-

Remembrancer of Legal Affairs.

U.o.r. to the G.D., No. 8347, dated 8th November 1945.

N.V.D.
17/7
4c.

Office of the P.L.A.

A revised draft notification is sent herewith.

2. The draft notification sent by the General Department at pages 111-112 ante is not in order. The proposed regulation 3A gives power to the District Magistrate in respect of the Municipal Borough of Nasik, the Sinnar Municipality and the Deolali Cantonment. The next regulation which follows, viz. regulation # 3B, empowers the District Magistrate to prohibit any person from taking out from a plague infected area any commodity which is likely to carry infection unless it has been disinfected by a person authorised by the District Magistrate. According to P.L.A's opinion No. 6638 dated the 12th September 1945 no action under section 2 of the Epidemic Diseases Act, 1897, can be taken, if necessary powers can be conferred on the Municipality under section 180 of the Bombay Municipal Boroughs Act, 1925. Section 180 of the Bombay Municipal Boroughs Act, 1925, corresponds to section 145 of the Bombay Municipal District Act, 1901, and section 151 of the Cantonments Act, 1924. In view of the provisions referred to no action under section 2 of the Epidemic Diseases Act, 1897, can be taken in so far as the areas included in a municipal borough, a municipal district or cantonment are concerned. The draft notification sent by the General Department has therefore been amended so as to confine its operation to areas not included in a municipal borough a municipal district or a cantonment.

3. It appears from the regulations at pages 81-87 ante that that they apply not only to the Nasik District but also to the District of Ahmednagar. It is however presumed that the proposed regulations are intended to apply only to the Nasik District.

Sd/-

Remembrancer of Legal Affairs.

U.R. to G.D.No. 8501, dated the 14th November 1945.

N.V.D.
17/7
4c.

NOTIFICATION

General Department,
Bombay Castle, November 1945.

Epidemic Disease Act, 1897.

No. 4307/33.- In exercise of the powers conferred by section 2 of the Epidemic Disease Act, 1897 (III of 1897), the Government of Bombay is pleased to amend the Plague Regulations published in Government Notification General Department, No. 4307/33, dated the 22nd August 1945, as follows, namely:-

After regulations 3 of the said regulations, the following new regulations shall be inserted, namely:-

"3-A. The District Magistrate may by order direct that no person from any infected area shall enter any portion of the Nasik Road area which is not included in the Municipal Borough of Nasik, unless:-

(i) he produces a certificate from a registered medical practitioner of having been inoculated against plague within a period of six months immediate preceding the date on which he enters any portion of such area; and

(ii) he allows his luggage to be fumigated at such place as the District Magistrate may appoint in this behalf.

3-B. The District Magistrate may be order direct that no person shall take out from a plague infected area in the Nasik District any article or thing which is likely to carry plague infection into any area not included in a municipal borough or municipal district or a cantonment unless it has been disinfected (fumigated) by a person authorised by him in this behalf.

By order of the Governor of Bombay,

Secretary to Government.

N.V.D.
17/7
4c.

Office of the R.L.A.

In his opinion No. 6665, dated 12th September 1945 the R.L.A. used the expression "mass inoculation" in the sense of "compulsory inoculation". As pointed out in that opinion a direction issued in that behalf by the Commissioner under section 180(1) of the Bombay Municipal Boroughs Act, 1925, and section 145 of the Bombay District Municipal Act, 1901, would compel the municipalities to take measures for compulsory - inoculation of the persons within their limits and any person found disobeying or failing to comply with any direction given by or on behalf of the municipalities for compulsory inoculation would be liable to punishment under section 193 of the Bombay Municipal Boroughs Act, 1925 and section 155 of the Bombay District Municipal Act, 1901.

Sd/-

Remembrancer of Legal Affairs.

U.F. to G.D. No. 9714 , dated the 29th December 1945.

N.V.D.
17/7
4c.